II. Law, Justice, Police, &c.

67. Empowering the members of the Sri Mulam Popular Assembly to elect the non-official members of the Legislative Council.

Mr. Varkey Oothuppu (*Ettumanur*) requested that the members of the Assembly might be allowed the privilege of electing the non-official members of the Legislative Council.

Reply.—The matter will be considered when rules are framed under section 5 of Regulation V of 1073.

68. Necessity for the election of a non-official member to the Legislative Council from the Kottayam Division.

Mr. K. Karunakaran Pillai (*Parur*) pointed out that no native of the Kottayam Division now sat in the Legislative Council and prayed for the removal of this defect.

Reply.—Non-official members are not intended to represent particular Divisions. But, in selecting non-official members, the interests of all the Divisions will be considered.

69. Desirability of amending the Civil Courts Regulation.

Mr. M. Bhaskara Menon, B. A., B. L., (*Parur*) observed that the appellate jurisdiction of District Judges was restricted to Rs. 500 in value, while in British India the limit was Rs. 3,000. It was desirable to extend the jurisdiction to at least Rs. 1,000, especially in the Kottayam Division, whence people had at present to travel long distances to present appeals. The Civil Courts Regulation Amendment Bill had been thrown out as a whole in the Legislative Council, but the passing of an amendment was necessary at least in regard to this particular matter.

Reply.—The Bill consisted of several parts and was thrown out in the Legislative Council. It is intended to take it up again and put in whatever is deemed desirable. The present suggestion will be borne in mind then.

70. Exemption of suits arising out of settlement decisions from payment of stamp and court-fees.

Mr. T. Kumara Pillai (*Kalkulam*) pointed out that this was one of the subjects urged upon the attention of Government at the last session of the Assembly. There was no appeal from the decisions of register-

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ing officers in the Settlement department and it took an extraordinarily long time for the settlement to come to a close. He therefore prayed that in all suits arising out of the decisions of the Settlement department the ryots might not be put to the necessity of paying court-fees and observed that the Land Acquisition Regulation granted a concession similar to the one now prayed for.

Mr. K. Padmanabhan Tampi (*Taluk Association, Kalkulam*) requested that these suits might be exempted from both stamp and court-fees.

Mr. P. Raman Tampi, B. A., M. L., (*Trivandrum*) suggested that in view of the decision of the civil courts of this State that pattah did not confer any title but was only a bit of paper secured by the ryots to enable them to know whc should pay tax, suits to modify the effect of or set aside the validity of such documents should be exempted from fees.

Mr. Varkey Oothuppu (*Ettumanur*) *and Mr. K. Kochu Thomman* (*Chengannur*) also dwelt on the same subject.

Mr. N. Padmanabha Pillai (*Chengannur*) requested that suits to rectify clerical errors might not be charged as they were at present and that a special provision might be added in the Court-fees Regulation (I of 1062) reducing the fees for these suits.

Reply.—Pattah is certainly no evidence of title, as has been held by the Privy Council very many years ago. Still, it is ordinarily treated as evidence of holding. In the classes of suits referred to by the speakers, the characteristic is that while both parties assert their possession the title is recognised in one of them. If the decision complained against is wrong, the fault is not wholly in the registering officer, but in the opposite party who raised the contention and caused the issue of the wrong order. Hence, it is natural that the aggrieved party should sue him. The question is whether in these cases full court-fees should be levied by Government. Court-fee is imposed as compensation for the labor and time spent by public servants in administering justice and therefore when a suit comes before courts, there must be exceptional reasons for exempting parties from the operation of the Court-fees Regulation. The instance of the Land Acquisition Regulation mentioned is not an analogy. There, Government is obliged to take up

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a certain land. The land remains in the possession of the owner and an order is passed by Government as to what compensation is payable to him thereon. If the man appeals to a civil court against this order, it is not his fault. His complaint is that Government do not pay him sufficiently, and if, as he alleges, Government have not satisfied his claim, they have to be dragged to court and compelled to pay his cost. In suits arising from settlement decisions, the dispute is between party and party in substance. It is therefore not expedient to exempt such suits altogether from court-fees. But in view of the fact that they are rendered necessary by the decisions of registering officers passed at the spot, in many cases upon summary enquiry, some concession might be shown. A party goes or is dragged to court only on some incidental question of title negatived by the settlement officer. Government accordingly propose to consider the feasibility of modifying the Court-fees Regulation (I of 1062) by providing a moderate fixed fee for suits to set aside pattahs. In British India, Rs. 10 is the sum fixed for such declaratory suits. Some such provision will be adopted here also.

71. Amendment of the Jenmi and Kudiyan Regulation (V of 1071).

Mr. T. Vasudevan Potti of Vilavancode (*Nominated*), *Mr. Aiyappan Pillai* (*Vycome*), *Mr. Thuppan Thuppan Namburipad* (*Kunnatnad*), *Mr. K. Narayanan Namburipad of Muvattupuzha* (*Nominated*) *and Mr. Narayanan Jatavedar Namburipad* (*Muvattupuzha*) prayed for the amendment of the Jenmi and Kudiyan Regulation embodying the existing practice in Cochin and British Malabar.

Reply.—This Regulation was only recently passed on the report of a special commission and there are no reasons to interfere with it now.

72. Repeal of clause (2) of Section 5 of the Hindu Religious Endowments Regulation (III of 1079).

Mr. Narayanan Jatavedar Namburipad (*Muvattupuzha*) represented that the provision sought to be now repealed worked considerable hardship on the proprietors of Devaswoms.

Reply.—This Regulation was very recently passed and no reasons are assigned for modifying it now.

73. Permission to apply for the refund of the value of spoilt stamps through the Tahsildars instead of direct to the Dewan Peishkars.

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